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1 - EPA to revoke California's power to limit vehicle emissions, Politico, 9/17/19

<https://www.politico.com/story/2019/09/17/epa-california-obama-waiver-1500336>

The Trump administration on Wednesday will revoke California's power to enforce more stringent limits on vehicle carbon pollution than the federal government, sparking a battle with the state that has led a revolt against the EPA's rollbacks of dozens of environmental regulations. The long-expected move seeks to neuter California's resistance to President Donald Trump's proposed rewrite of the Obama-era rules that would have required automakers to accelerate the deployment of more fuel-efficient cars and light trucks, a high priority in the state that has led the nation in efforts to fight climate change.

2 - EPA Releases Final Plan For Tar Creek Clean-Up, KOTV, 9/17/19

<https://www.newson6.com/story/41062640/epa-releases-final-plan-for-tar-creek-cleanup>

The Environmental Protection Agency is releasing its final strategic plan for the ongoing clean-up at the Tar Creek Superfund site. The Ottawa County site is one of the largest Superfund programs, with tens of millions of tons of chat left over from more than a half century of mining

3 - Texas Tech, Texas A&M awarded approximately \$1.3 million for PFAS research, 9/15/19

<https://www.everythinglubbock.com/news/local-news/texas-tech-texas-am-awarded-approximately-1-3-million-for-pfas-research/>

Today [Tuesday], the U.S. Environmental Protection Agency (EPA) announced approximately \$1.3 million to fund research by two academic institutions in Texas. Texas A&M AgriLife and Texas Tech University will work to expand the understanding of the environmental risks posed by per- and poly-fluoroalkyl substances (PFAS) in waste streams. They will also work to identify practical approaches to manage the potential impacts as PFAS enters the environment.

4 - Federal plan to end state mileage standards draws criticism, Galveston County Daily News, 9/18/19

https://www.galvnews.com/news_ap/texas/article_44ca17ba-e9be-50dd-8bdf-ffc7bc87f1f0.html

The Trump administration is poised to revoke California's authority to set auto mileage standards, asserting that only the federal government has the power to regulate greenhouse gas emissions and fuel economy. Conservative and free-market groups have been asked to attend a formal announcement of the rollback set for Wednesday afternoon at Environmental Protection Agency headquarters in Washington.

5 – Groups Sue EPA Over Los Alamos Pollution, KRWG, 9/17/19

<https://www.krwg.org/post/groups-sue-epa-over-los-alamos-pollution>

Late yesterday, clean water advocates filed a lawsuit against the Environmental Protection Agency (EPA) to force it to address extremely high urban storm water pollution in Los Alamos County, downstream from Los Alamos National Laboratory (LANL). Urban storm water pollution from PCBs, copper, zinc, nickel, and gross alpha radiation in Los Alamos County is threatening public health – some pollutants are more than 10,000 times public safety limits. This pollution should have triggered federal action to reduce or eliminate these discharges in the form of a National

Pollutant Discharge Elimination System (NPDES) permit, but the EPA has failed to act. In 2014 Amigos Bravos petitioned the agency to address this threat, but it did not respond.

6 – EDITORIAL: EPA has lost its way; it isn't protecting America's water, Houston Chron, 9/18/19

<https://www.houstonchronicle.com/opinion/editorials/article/EPA-has-lost-its-way-it-isn-t-protecting-14447796.php>

Let's take a moment to remember why the federal Clean Water Act was passed in 1972. Because people were getting sick after swimming in, fishing from, or drinking polluted water. Because nearly two-thirds of the nation's lakes, rivers and coastal waters were unsafe for humans. Because untreated sewage and other pollution was being dumped routinely, unchecked, into our waterways. Some land use restrictions were needed to prevent that. That should be clearly understood, especially in Texas, where 143,000 miles of streams will be impacted by the Environmental Protection Agency's recent decision to weaken the clean water rules.

7 - Lawsuit hopes to force EPA to address water pollution from Los Alamos National Laboratory, Carlsbad Current Argus, 9/17/19

<https://www.currentargus.com/story/news/local/2019/09/17/los-alamos-national-laboratory-lawsuit-epa-pollution-clean-water-act/2352875001/>

Environmentalist sued the federal Environmental Protection agency for alleged water pollution stemming from activities at Los Alamos National Laboratory (LANL). The suit was intended to force the EPA to address "extremely high" storm water pollution in Los Alamos County, downstream of LANL. The Western Environmental Law Center alleged contamination from PCBs, copper, zinc, nickel and alpha radiation threatened public health, with some pollutants more than 10,000 times public safety limits, read a news release from the Center.

8 - WOTUS repeal good news for farmers, ranchers, Oklahoman, 9/18/19

<https://oklahoman.com/article/5641558/wotus-repeal-good-news-for-farmers-ranchers>

The Environmental Protection Agency's recent repeal of an Obama-era water rule is good news for the state's farmers and ranchers and a victory for Oklahoma's senior U.S. senator, who fought the overzealous move from the outset. In 2015, the EPA greatly expanded the definition of "Waters of the United States," or WOTUS, under the federal Clean Water Act. The term traditionally had referred to large lakes and rivers, although the definition was expanded in 1986 to include tributaries and adjacent wetlands.

9 – Improvement at Tar Creek, but still many years to fully remediate area, says EPA official, Tulsa World, 9/18/19

https://www.tulsaworld.com/news/state-and-regional/improvement-at-tar-creek-but-still-many-years-to-fully/article_9caeac75-8c2b-5fc5-abfc-57f052923e31.html

Environmental Protection Agency Regional Administrator Ken McQueen touted how working together with the state and the Quapaw Nation has yielded many successes in the Tar Creek Strategic Plan, but there are many years left to restore the land. McQueen, who spoke Tuesday at a Tar Creek conference, is the Environmental Protection Agency Region 6 administrator.

10 Clean Power Plan legal war is over — sort of, EE News, 9/18/19

<https://www.eenews.net/energywire/2019/09/18/stories/1061131965>

Litigation over the Clean Power Plan may have officially come to an end yesterday, but some of the key issues about the legality of the rule will still be up for review in the lawsuit over its replacement. The U.S. Court of Appeals for the District of Columbia Circuit ruled yesterday that the consolidated litigation over the Obama administration's rule on carbon emissions from power plants was now moot (E&E News PM, Sept. 17).

11 Houston area prepares for heavy rain, flooding from Imelda, Climate Wire, 9/18/19

<https://www.eenews.net/climatewire/2019/09/18/stories/1061131179>

Officials in the Houston area are preparing high-water vehicles and staging rescue boats as Tropical Storm Imelda threatens to dump up to 15 inches of rain in parts of southeast Texas and southwestern Louisiana over the next few days. The storm, which formed yesterday, made landfall near Freeport, Texas, with maximum sustained winds of 40 mph.

12 House passes lead contamination bill, EE News, 9/18/19

<https://www.eenews.net/eedaily/2019/09/18/stories/1061132083>

The House approved legislation yesterday to help fund efforts aimed at reducing lead from drinking water. Lawmakers passed S. 1689, sponsored by Sen. Cory Booker (D-N.J.). It would allow states to transfer some money from their Clean Water State Revolving Fund to their Drinking Water State Revolving Fund. The Senate approved the bill last week by unanimous consent. The House passed it unanimously under suspension of the rules.

13 Water quality sensor hitches a ride on steamboat, Greenwire, 9/17/19

<https://www.eenews.net/greenwire/2019/09/17/stories/1061130009>

A data-gathering sensor attached to the American Queen steamboat will give scientists and cities a better understanding of water quality along the entire length of the Mississippi River, officials said yesterday. U.S. Geological Survey and Army Corps of Engineers officials, a group of Mississippi River city mayors, and the operators of the American Queen gathered to show off the new equipment on the steam-driven vessel in Memphis, Tenn. The stately steamboat is the first private vessel to carry a sensor that gathers data to help preserve and restore ecosystems, and to buoy economies of cities and towns up and down the heavily traveled commercial waterway.

14 Third new judge in two years on Spanish Lake oil field contamination suit orders new hearings on Shell liability, Advocate, 9/17/19

https://www.theadvocate.com/baton_rouge/news/article_7c343f36-d8a2-11e9-8fd6-d3b13cd04ba0.html

A retired appellate judge appointed to hear a longstanding oil field legacy lawsuit involving the Spanish Lake swamp breathed new life into the landowners' damage claims this week when he granted them new hearings that keep Shell Oil firmly in the dispute. Filed in 2010 in Iberville Parish, the lawsuit brought by Spanish Lake Restoration, a wetland mitigation bank holding 4,000 acres of the swamp southwest of Baton Rouge, has never gone to on trial on the merits.

15 New TCEQ commissioner an Abbott aid with nuclear waste experience, Houston Chron, 9/16/19

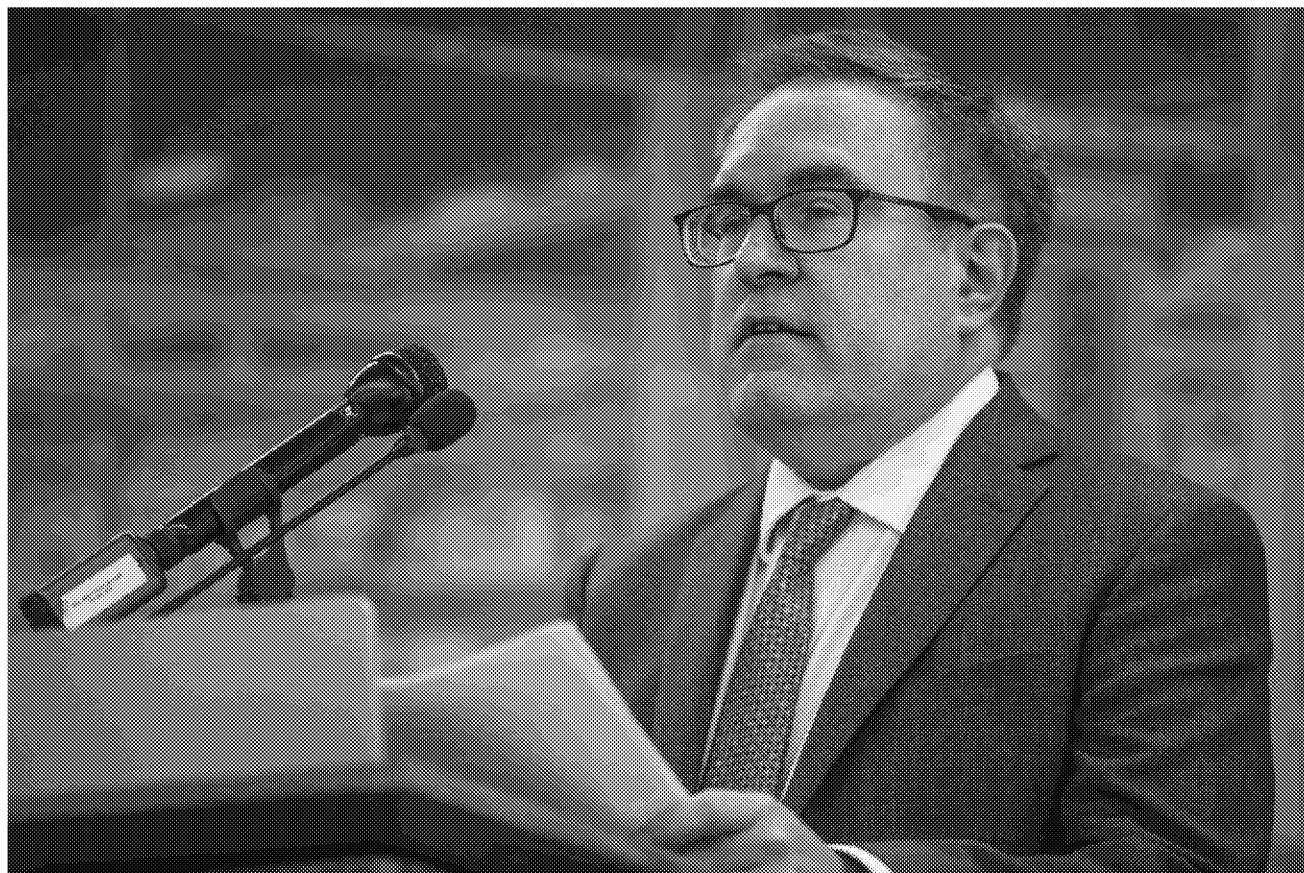
<https://www.houstonchronicle.com/business/article/New-TCEQ-commissioner-an-Abbott-aid-with-nuclear-14444409.php>

Bobby Janecka, a policy aide to Texas Gov. Greg Abbott and Texas liaison to the federal Nuclear Regulatory Commission, was appointed by the governor to the Texas Commission on Environmental Quality on Monday. Janecka assumes a seat that had been vacant since last September when former TCEQ Chair Bryan Shaw suddenly stepped down and was replaced as chair by commissioner Jon Niermann. The three commissioners, appointed by the governor, serve staggered six-year terms.

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EPA Administrator Andrew Wheeler. | Zach Gibson/Getty Images

ENERGY & ENVIRONMENT

EPA to revoke California's power to limit vehicle emissions

By **ALEX GUILLÉN** | 09/17/2019 02:05 PM EDT | Updated 09/17/2019 05:29 PM EDT

The Trump administration on Wednesday will revoke California's power to enforce more stringent limits on vehicle carbon pollution than the federal government, sparking a battle with the state that has led a revolt against the EPA's rollbacks of dozens of environmental regulations.

The long-expected move seeks to neuter California's resistance to President Donald Trump's proposed rewrite of the Obama-era rules that would have required automakers to accelerate the deployment of more fuel-efficient cars and light trucks, a high priority in the state that has led the nation in efforts to fight climate change.

The Trump EPA had originally planned to withdraw California's waiver at the same time it issues its broader proposal to roll back federal auto emissions standards. But the administration accelerated its plans to single out California after the state struck an agreement with Ford and three other car makers to continue to lower their vehicles' emissions, even if the federal rules are frozen. California's deal with the automakers recently drew a stern rebuke from EPA and the Transportation Department as well as an anti-trust investigation from the Justice Department.

California Gov. Gavin Newsom blasted the Trump administration for undermining its efforts to cut pollution and fight climate change.

"The president could learn from California," Newsom said in a statement. "Instead, reports today suggest that his administration will act on a political vendetta by announcing they intend to end aspects of our clean car waiver."

California Attorney General Xavier Becerra vowed to fight any attack on the state's authority in court, while Rep. Doris Matsui (D-Calif.) said she is "exploring all options, including legislation, to block the EPA's rule."

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But Trump is eager to land a blow against the state that has become a top foe not just on environmental regulation, but also immigration, labor and other contentious issues — even as major business interests worry about the fallout.

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Automakers, who at first requested that Trump revisit the strict Obama-era standards, have more recently warned that a regulatory split with California would create market chaos. If California successfully defends its right to the waiver in court, automakers could be forced to reckon with two sets of standards — one for California and more than a dozen other states that choose to follow it, and a weaker one for the states that follow the federal rules expected to be finished in the coming months.

EPA did not comment on the expected withdrawal.

But Administrator Andrew Wheeler previewed the withdrawal during a gathering of the National Automobile Dealers Association on Tuesday.

"In the very near future, the Trump administration will begin taking the steps necessary to establish one set of national fuel-economy standards," Wheeler said, according to prepared remarks distributed by EPA.

Wheeler and California officials had sought to strike a compromise earlier this year to maintain a national standard on any new vehicle rules, but those talks collapsed in acrimony, with each side accusing the other of failing to seriously seek a solution.

"We embrace federalism and the role of the states, but federalism does not mean that one state can dictate standards for the nation," Wheeler said.

Conservative groups quickly cheered the upcoming waiver withdrawal.

"The Trump administration deserves a lot of credit for correcting this constitutional and legal monstrosity," said Myron Ebell of the Competitive Enterprise Institute. "No state, not even California, has a right to set national fuel economy standards for all the other states."

But Janet McCabe, an Obama-era EPA air chief, told POLITICO that the withdrawal of California's waiver would be "unfortunate" and would again set back policies critical for addressing greenhouse gases.

Climate change “is a ‘y’all come’ situation, where we need all the reasonable programs that we can get in place,” she said. “And this is one of the most reasonable and impactful across the board.”

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Environmental Defense Fund President Fred Krupp said his group would fight the Trump EPA's move in court.

“The unlawful approach the Trump administration is reportedly planning seeks to block states from choosing clean car standards that protect millions of people from tailpipe pollution,” Krupp said.

Other states have levied challenges to Trump's deregulatory agenda, especially New York, and environmentalists and public health advocates regularly join those fights. But California holds a special place when it comes to the environment, as well as drawing the president's ire.

The Clean Air Act gives California unique powers to enforce stronger pollution standards than the federal level. But that power is contingent on EPA's waiver, which is what the agency plans to revoke on Wednesday.

In addition, the District of Columbia and 13 states have adopted California's stricter greenhouse gas rules: Oregon, Washington, Colorado, Maryland, Pennsylvania, Delaware, New Jersey, New York, Connecticut, Rhode Island, Massachusetts, Vermont and Maine. Together those states make up 36 percent of U.S. auto sales, and only one — Pennsylvania — supported Trump in 2016.

The Trump administration now argues that California's ability to set more stringent requirements applies only to pollutants like nitrogen oxides that can be controlled through technologies such as catalytic converters.

Conversely, controlling carbon dioxide emissions is primarily achieved via fuel efficiency increases. But that tramples on the 1975 law that created the DOT's Corporate Average Fuel Economy, or CAFE, program, according to the legal argument made by the Trump administration. The Energy Policy and Conservation Act says states “may not adopt or enforce a law or regulation related to fuel economy standards.”

California's greenhouse gas standards closely resemble the fuel economy standards, so they are prohibited, the Trump administration argues.

But two federal judges rejected similar arguments on EPCA preemption in 2007. Appeals in those cases were dropped as part of the Obama administration's negotiations with automakers to set one national standard, and the Trump administration says those opinions are not controlling and rely on out-of-date information.

Wheeler on Tuesday said that the greenhouse gas rollback would not affect other California efforts to limit vehicle emissions unrelated to climate change.

“California will be able to keep in place and enforce programs to address smog and other forms of air pollution caused by motor vehicles,” he said in his prepared remarks to the auto dealers group.

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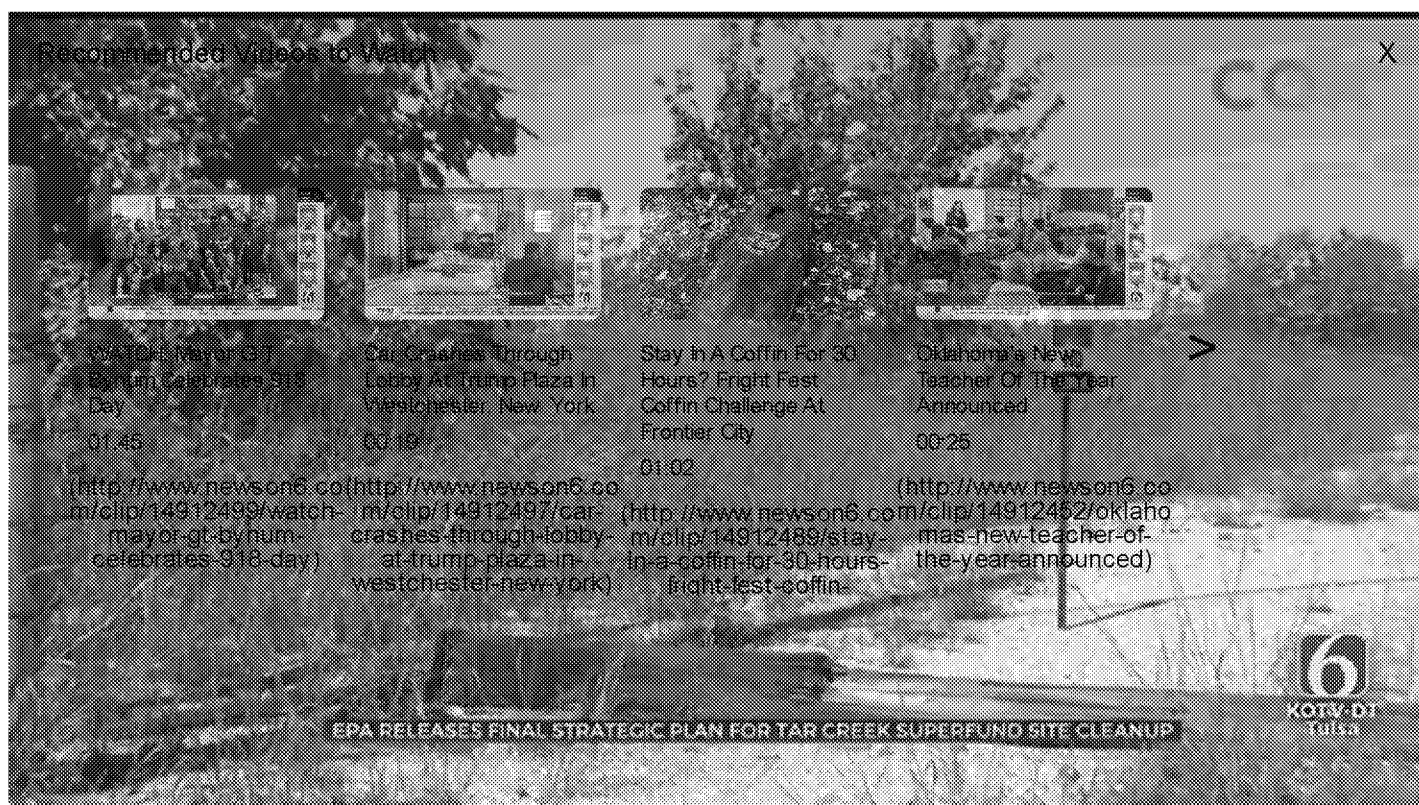

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Tuesday, September 17th 2019, 10:41 PM CDT

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By: **Robert McCarty**

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In its new plan, the EPA says it now realizes it's not possible to remediate all of the site for residential use. Instead, it's going to look into alternate uses for the land. The EPA says it has cleaned up about 100 chemicals since 1983 and has another 248 left to remove.

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Read the full report by clicking here (<https://semspub.epa.gov/work/06/100017221.pdf>).



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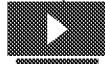


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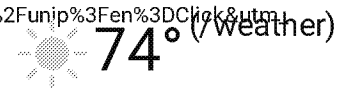
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Texas Drivers With No DUI's Getting A Big Pay Day

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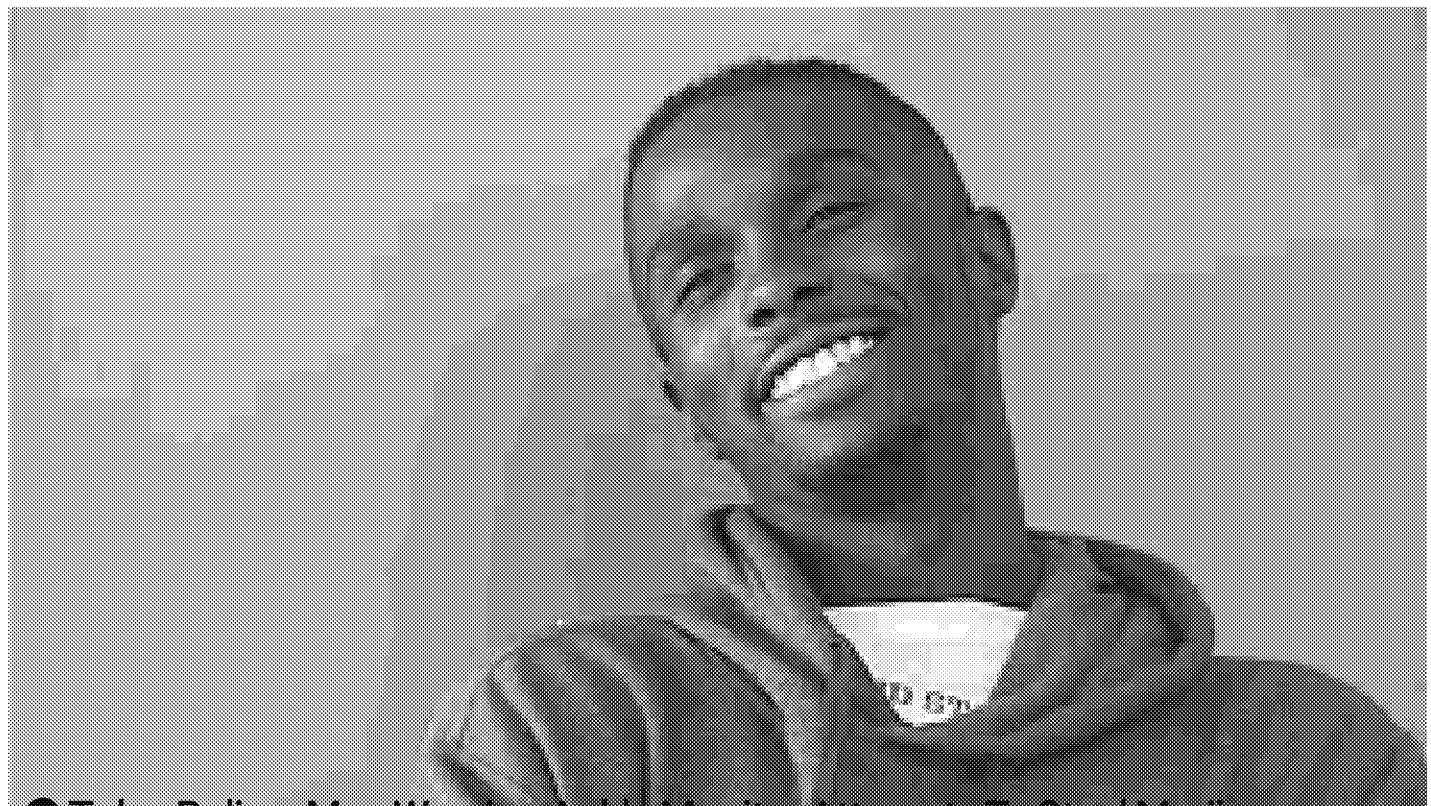


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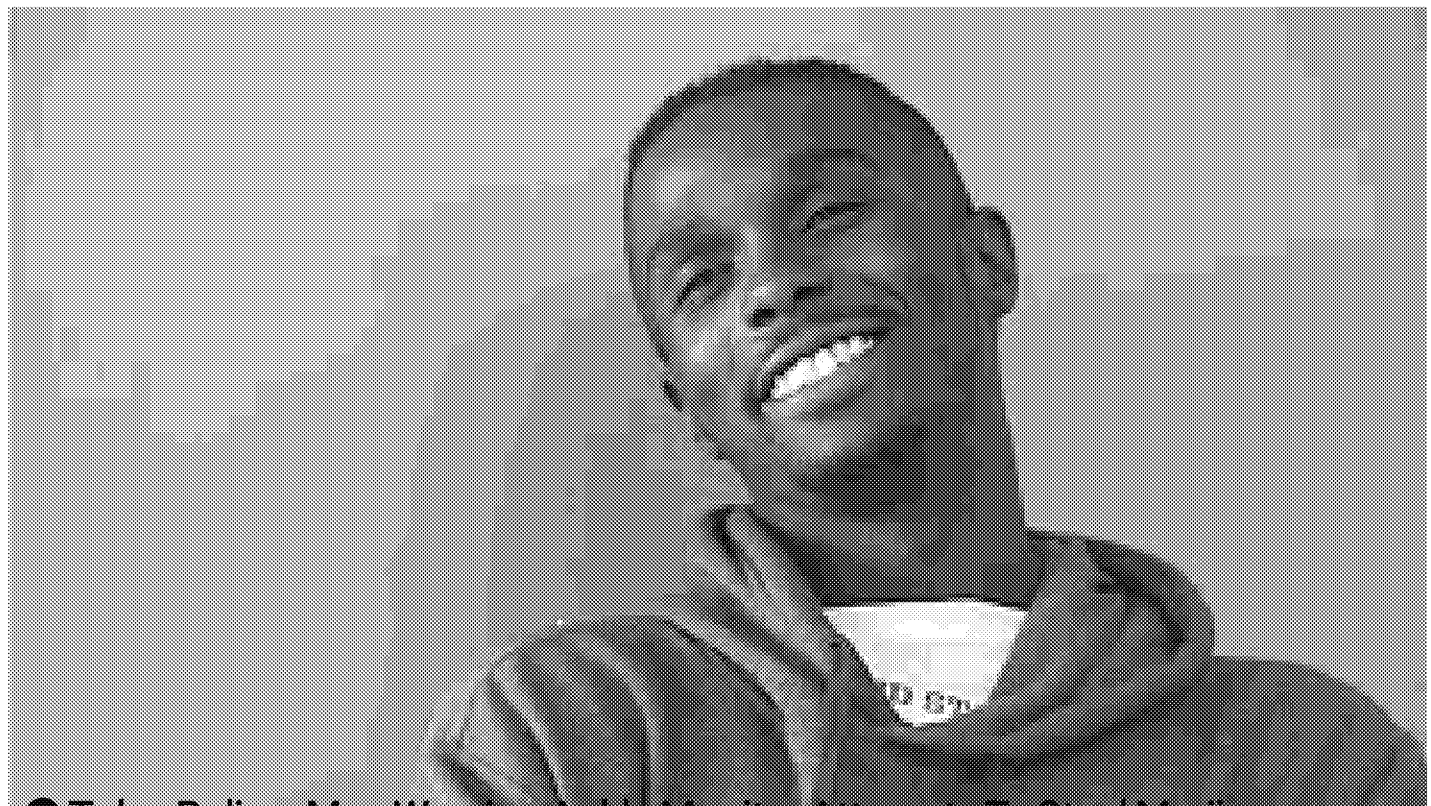


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LOCAL NEWS

Texas Tech, Texas A&M awarded approximately \$1.3 million for PFAS research



(Photo provided by the Environmental Protection Agency)

by: Chris Whited

Posted: Sep 17, 2019 / 03:25 PM CDT / Updated: Sep 17, 2019 / 03:25 PM CDT

DALLAS, Texas (NEWS RELEASE) – *The following is a news release from EPA Region 6:*

Today [Tuesday], the U.S. Environmental Protection Agency (EPA) announced approximately \$1.3 million to fund research by two academic institutions in Texas. Texas A&M AgriLife and Texas Tech University will work to expand the understanding of the environmental risks posed by per- and poly-fluoroalkyl substances (PFAS) in waste streams. They will also work to identify practical approaches to manage the potential impacts as PFAS enters the environment.



provided by this funding will foster innovative solutions to an emerging chemical of concern.”

Taking concrete actions to address PFAS is one of EPA’s highest priorities. EPA’s recently released PFAS Action Plan identifies both short-term solutions for addressing PFAS chemicals and long-term strategies that will help provide the tools and technologies states, tribes and local communities need to clean up sites and provide clean, safe drinking water to their residents.

Texas A&M AgriLife Research in College Station, Texas plans to investigate the feasibility of electron beam technology for the destruction of PFAS compounds during the remediation of groundwater, wastewater, sewage sludges, and soils. Additionally, Texas Tech University in Lubbock, Texas plans to identify and quantify the occurrence of PFAS in landfill leachate, investigate the fate of PFAS passing through typical landfill liner systems, and test the ability to break down PFAS in landfill leachate using soundwaves.

Nationally, EPA awarded almost \$6 million to eight recipients to receive funding through EPA’s Science to Achieve Results (STAR) Program. For more information on EPA’s recipients, visit

https://cfpub.epa.gov/ncer_abstracts/index.cfm/fuseaction/recipients.display/rfa_id/643/records_per_page/ALL

PFAS are a group of synthetic chemicals that have been in use since the 1940s. PFAS are found in a wide array of consumer and industrial products. Due to widespread use and persistence in the environment, most people in the United States have been exposed to PFAS. EPA continues to evaluate the potential risk of these compounds to human health and the environment, but there is evidence that chronic exposure above specific levels to certain PFAS may lead to adverse health effects.

PFAS have been found in solid waste, landfills and surrounding environmental media (soil, groundwater), leachates, landfill gas, wastewater effluents, and biosolids. However, current treatment options are limited, as many conventional treatment methods are ineffective. In funding these projects, EPA is specifically supporting research to identify or develop innovative methods to treat or manage PFAS before it enters the environment to minimize its risks to humans and ecosystems. The resulting data will help researchers understand the occurrence, fate and transport of PFAS and identify methods or technologies to better manage PFAS-containing waste.

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(News release from the Environmental Protection Agency Region 6)

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by Staff | newsweb@everythinglubbock.com / Sep 18, 2019

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by Staff | newsweb@everythinglubbock.com / Sep 17, 2019

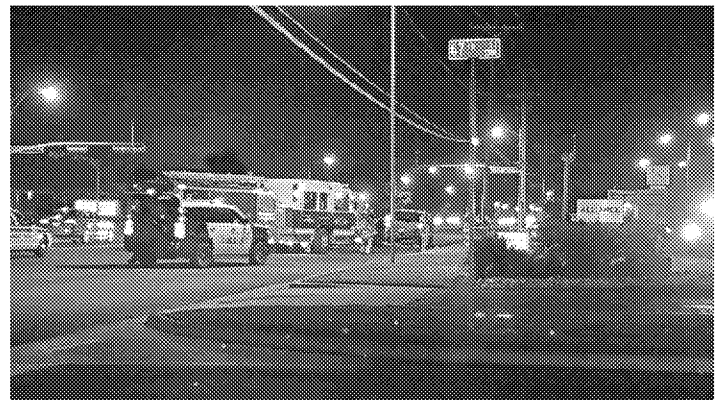
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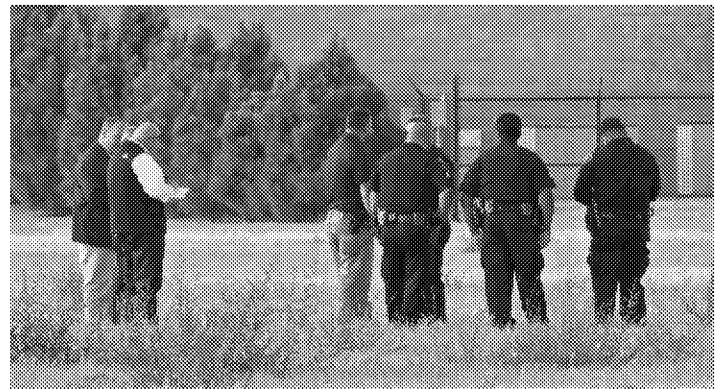
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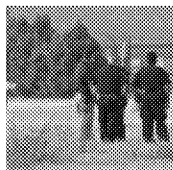
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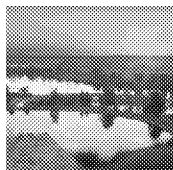
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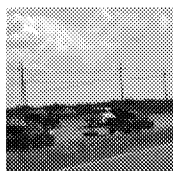
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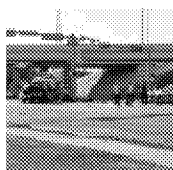
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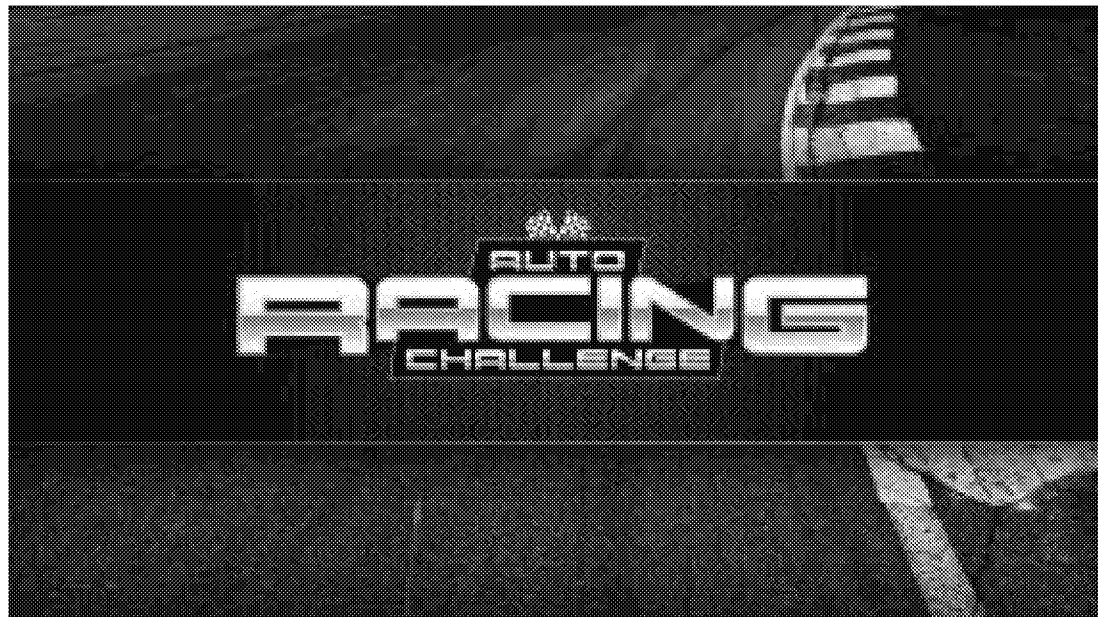
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AP

Federal plan to end state mileage standards draws criticism

By MICHAEL BIESECKER Associated Press Sep 18, 2019 Updated 23 min ago

1 of 7



This Feb. 14, 2019, photo released by Caltrans District 3 shows a 7-mile back up on the South bound Interstate 5, as it reopens to traffic in Maxwell in Colusa County, Calif. The Trump administration is poised revoke California's authority to set auto mileage standards, asserting that only the federal government has the power to regulate greenhouse gas emissions and fuel economy.

HOGP

WASHINGTON (AP) — The Trump administration is poised to revoke California's authority to set auto mileage standards, asserting that only the federal government has the power to regulate greenhouse gas emissions and fuel economy.

Conservative and free-market groups have been asked to attend a formal announcement of the rollback set for Wednesday afternoon at Environmental Protection Agency headquarters in Washington.

Gloria Bergquist, spokeswoman for the Alliance of Automobile Manufacturers, said Tuesday that her group was among those invited to the event featuring EPA Administrator Andrew Wheeler and Transportation Secretary Elaine Chao.

The move comes after the Justice Department recently opened an antitrust investigation into a deal between California and four automakers for tougher pollution and related mileage requirements than those sought by President Donald Trump. Trump also has sought to relax Obama-era federal mileage standards nationwide, weakening a key effort by his Democratic predecessor to slow climate change.

Top California officials and environmental groups pledged legal action to stop the rollback.

The White House declined to comment Tuesday, referring questions to EPA. EPA's press office did not respond to a phone message and email seeking comment.

But Wheeler told the National Automobile Dealers Association on Tuesday that the Trump administration would move "in the very near future" to take steps toward establishing one nationwide set of fuel-economy standards.

"We embrace federalism and the role of the states, but federalism does not mean that one state can dictate standards for the nation," Wheeler said, adding that higher fuel economy standards would hurt consumers by increasing the average sticker price of new cars and requiring automakers to produce more electric vehicles.

Word of the pending announcement came as Trump traveled to California on Tuesday for an overnight trip that includes GOP fundraising events near San Francisco, Los Angeles and San Diego.

California's authority to set its own, tougher emissions standards goes back to a waiver issued by Congress during passage of the Clean Air Act in 1970. The state has long pushed automakers to adopt more fuel-efficient passenger vehicles that emit less pollution. A dozen states and the District of Columbia also follow California's fuel economy standards.

California Attorney General Xavier Becerra said Tuesday that the Trump administration's action will hurt both U.S. automakers and American families. He said California would fight the administration in federal court.

"You have no basis and no authority to pull this waiver," Becerra, a Democrat, said in a statement, referring to Trump. "We're ready to fight for a future that you seem unable to comprehend."

California Gov. Gavin Newsom said the White House "has abdicated its responsibility to the rest of the world on cutting emissions and fighting global warming."

"California won't ever wait for permission from Washington to protect the health and safety of children and families," said Newsom, a Democrat.

The deal struck in July between California and four of the world's largest automakers — Ford, Honda, BMW and Volkswagen — bypassed the Trump administration's plan to freeze emissions and fuel economy standards adopted under Obama at 2021 levels.

The four automakers agreed with California to reduce emissions by 3.7% per year starting with the 2022 model year, through 2026. That compares with 4.7% yearly reductions through 2025 under the Obama standards. Emissions standards are closely linked with fuel economy requirements because vehicles pollute less if they burn fewer gallons of fuel.

The U.S. transportation sector is the nation's biggest single source of planet-warming greenhouse gasses.

Wheeler said Tuesday: "California will be able to keep in place and enforce programs to address smog and other forms of air pollution caused by motor vehicles." But fuel economy has been one of the key regulatory tools the state has used to reduce harmful emissions.

Environmentalists condemned the Trump administration's expected announcement, which comes as gasoline prices have crept higher following a weekend drone attack that hobbled Saudi Arabian oil output.

"Everyone wins when we adopt strong clean car standards as our public policy," said Fred Krupp, president of Environmental Defense Fund. "Strong clean car standards give us healthier air to breathe, help protect us from the urgent threat of climate change and save Americans hundreds of dollars a year in gas expenses."

Associated Press writer Adam Beam in Sacramento, Calif., contributed to this report.

Follow AP investigative reporter Michael Biesecker at <http://twitter.com/mbieseck>

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Groups Sue EPA Over Los Alamos Pollution

By AMIGOS BRAVOS • 15 HOURS AGO

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Commentary: Late yesterday, clean water advocates filed a lawsuit (<https://westernlaw.org/wp-content/uploads/2019/09/2019.09.16-Los-Alamos-Stormwater-Complaint.pdf>) against the Environmental Protection Agency (EPA) to force it to address extremely high urban storm water pollution in Los Alamos County, downstream from Los Alamos National Laboratory (LANL).

Urban storm water pollution from PCBs, copper, zinc, nickel, and gross alpha radiation in Los Alamos County is threatening public health – some pollutants are more than 10,000 times public safety limits. This pollution should have triggered federal action to reduce or eliminate these discharges in the form of a National Pollutant Discharge Elimination System (NPDES) permit, but the EPA has failed to act. In 2014 Amigos Bravos petitioned

(https://mediad.publicbroadcasting.net/p/krwg/files/styles/x_large/public/201602/epa.png)

(<https://westernlaw.org/wp-content/uploads/2019/06/2014.06.30-Los-Alamos-Stormwater-NPDES-Petition.pdf>) the agency to address this threat, but it did not respond. In June of this year Amigos Bravos and Western Environmental Law Center sent a letter (<https://westernlaw.org/wp->

content/uploads/2019/06/2019.06-26-Los-Alamos-Stormwater-NOI.pdf) notifying the EPA of the organizations' intent to sue due to the agency's inaction on the 2014 petition. EPA did not respond substantively to this letter.

As required by the Clean Water Act, New Mexico set standards to ensure the state's rivers, streams and lakes are clean enough to allow the public to use these waters for drinking, swimming, boating, and other activities, and to support healthy populations of fish and wildlife. To ensure these standards are met, the Clean Water Act requires the EPA to regulate stormwater runoff when that runoff is making the water unsafe.


The New Mexico Environment Department's (NMED) data show dramatic exceedances of the state's PCB human health water quality limits. PCB levels in Los Alamos Canyon are more than 11,000 times greater than the New Mexico Human Health water quality criteria and 51 times greater than the New Mexico Wildlife Habitat water quality criteria. Sandia Canyon shows PCB contamination more than 14,000 times greater than the New Mexico Human Health water quality criteria and 66 times greater than the New Mexico Wildlife Habitat water quality criteria. PCBs levels in Pueblo Canyon are more than 3,500 times greater than the New Mexico Human Health water quality criteria and 16 times greater than the New Mexico Wildlife Habitat water quality criteria. These three drainages are all heavily influenced by urban stormwater runoff.

The state's 303d/305b report documents many more exceedances of standards – for a variety of pollutants and locations. Mortandad Canyon is high in PCBs, mercury, silver, cyanide, copper, and gross alpha radiation pollution. Pajarito Canyon is impaired for gross alpha radiation, aluminum, PCBs, and copper. LANL's own documents confirm these findings and identify urban runoff as the culprit for many of these pollutants.

In 2015 EPA published a preliminary designation finding that Amigos Bravos' 2014 petition should be granted, but has since failed to take any action. In June 2019 Amigos Bravos and Western Environmental Law Center sent EPA a letter to notify the agency of the groups' intent to sue them for this failure to take action. EPA has not responded to the June letter, forcing the groups to take further action by filing the lawsuit today.

We are disappointed that for years EPA has failed to take action to protect New Mexicans' public health and environment and require that these toxic discharges be controlled and monitored," said Rachel Conn, projects director with Amigos Bravos. "Meanwhile toxic pollution continues to flow down into the Rio Grande above the drinking water diversions for both Albuquerque and Santa Fe."


"Under the Clean Water Act, the rubber hits the road when the standards and goals for waterways are turned into permit requirements," said Andrew Hawley, attorney with the Western Environmental Law Center. "EPA must act now to protect the people and environment in Los Alamos County. We hope the EPA decides to do the right thing."

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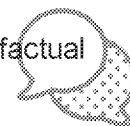
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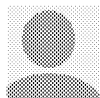
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EPA has lost its way; it isn't protecting America's water [Editorial]

By The Editorial Board

Sep. 18, 2019



Environmental Protection Agency administrator Andrew Wheeler talks to members of the news media on Sept. 12, 2019, after announcing the repeal of landmark Obama-era clean water regulations at the headquarters of the National Association of Manufacturers, an industry group that had opposed the rule.

Let's take a moment to remember why the federal Clean Water Act was passed in 1972. Because people were getting sick after swimming in, fishing from, or drinking polluted water. Because nearly two-thirds of the nation's lakes, rivers and coastal waters were unsafe for humans. Because untreated sewage and other pollution was being dumped routinely, unchecked, into our waterways.

Some land use restrictions were needed to prevent that. That should be clearly understood, especially in Texas, where 143,000 miles of streams will be impacted by the

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Indeed, there was nothing subtle about EPA Administrator Andrew Wheeler's announcement Thursday of rule changes that will make America's waterways and streams more vulnerable to pollution. He broke the news at the National Association of Manufacturers headquarters with Jay Timmons, NAM president, by his side.

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Lawsuit hopes to force EPA to address water pollution from Los Alamos National Laboratory

Adrian Hedden, Carlsbad Current-Argus

Published 3:57 p.m. MT Sept. 17, 2019

Environmentalist sued the federal Environmental Protection agency for alleged water pollution stemming from activities at Los Alamos National Laboratory (LANL).

The suit was intended to force the EPA to address "extremely high" storm water pollution in Los Alamos County, downstream of LANL.

The Western Environmental Law Center alleged contamination from PCBs, copper, zinc, nickel and alpha radiation threatened public health, with some pollutants more than 10,000 times public safety limits, read a news release from the Center.

Polychlorinated biphenyls (PCBs) are manmade chemicals widely used in electrical equipment such as transformers and capacitors, per a report from the Illinois Department of Public Health.

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They're released via spills or leaks from electrical equipment or improper storage or disposal, read the report, with more than half of the PCBs produced leached into the environment.

Report sites concerns

The report said PCBs can cause skin lesions, liver damage or even cancer.

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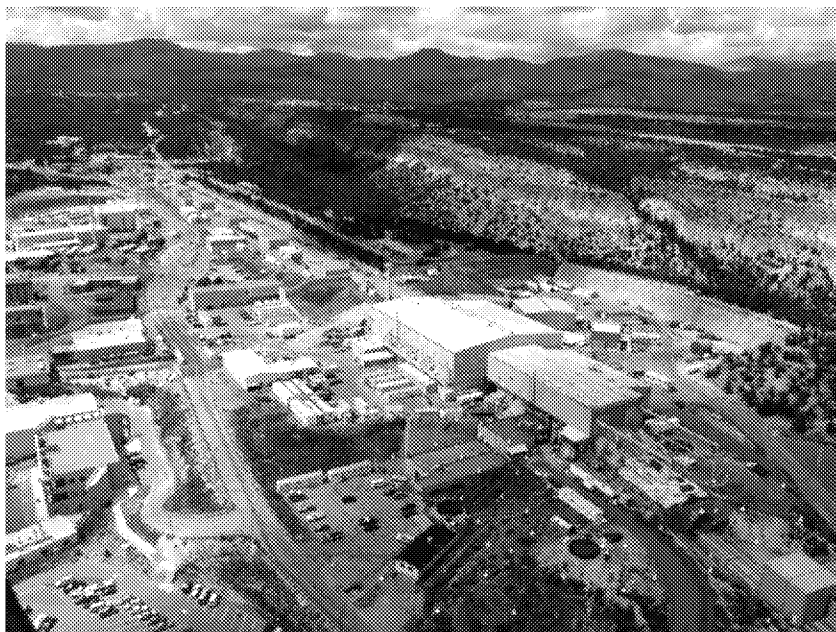
"This pollution should have triggered federal action to reduce or eliminate these discharges in the form of a National Pollutant Discharge Elimination System (NPDES) permit, but the EPA has failed to act," the Center's release read.

Amigos Bravos petitioned the EPA in 2014, to address the issue but alleged the EPA failed to respond.

MORE: [WIPP: Shipments to grow from Los Alamos as loading facility back in service \(/story/news/local/2019/04/17/lanl-up-nuclear-waste-deliveries-wipp-carlsbad/3497817002/\)](#)

The group and the law center sent a letter in June to the EPA, calling for action, but said the EPA did respond "substantially."

The suit cited the Clean Water Act, which requires the EPA to regulate storm water runoff if that water is deemed unsafe, pointing to three drainages that were "heavily" influenced by urban storm water runoff and found with high levels of contamination.



This undated aerial photo shows the Los Alamos National laboratory in Los Alamos, N.M. When J. Robert Oppenheimer invited the top scientists to New Mexico in 1943 to build the world's first nuclear weapon, no one really knew what the results were going to be. What they did know was that they had to succeed at all costs. The Los Alamos Monitor reports the once-secret city on Saturday, June 30, 2018, marked 75 years of discovery at Los Alamos National Laboratory with a day of speeches and activities. (Photo: AP)

"Dramatic exceedances" were reported by the New Mexico Environment Department, read the release, for PCB human health water quality limits, with PCB levels in Los Alamos Canyon more than 11,000 times the State's standards and 51 times greater than the New Mexico Wildlife Habitat criteria.

More: [Senate Bill could provide \\$403 million to WIPP, fund other energy projects in New Mexico \(/story/news/local/2019/09/14/senate-bill-could-provide-403-million-wipp/2311997001/\)](#)

Sandia Canyon, read the release, showed PCB contamination more than 14,000 times greater than the NMED's human health limits and 66 times greater than the Wildlife Habitat criteria.

In Pueblo canyon, human health limits were 3,500 times greater than the human health standards, and 16 times greater than the wildlife criteria.

MORE: [WIPP: Shipments resume from Los Alamos \(/story/news/local/2018/10/11/wipp-shipments-los-alamos/1600960002/\)](#)

Other state records cited in the suit alleged Mortandad Canyon was high in PCBs, mercury, silver, cyanide, copper and alpha radiation, while Pajarito Canyon saw high levels of radiation, aluminum, PCBs and copper.

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The suit blamed urban runoff as causing the elevated pollution.

In 2015, the EPA published a report finding that Amigos Bravos' petition should be granted, but the suit accused the federal agency of failing to act.

MORE: [Study suggests Texas address oil and gas waste water, while New Mexico seeks solutions \(/story/news/local/2019/09/17/study-suggests-texas-address-oil-and-gas-waste-water/2341398001/\)](#)

"We are disappointed that for years EPA has failed to take action to protect New Mexicans' public health and environment and require that these toxic discharges be controlled and monitored," said Rachel Conn, projects director with Amigos Bravos.

"Meanwhile toxic pollution continues to flow down into the Rio Grande above the drinking water diversions for both Albuquerque and Santa Fe."

Andrew Hawley, attorney with the Western Environmental Law Center said the EPA has a duty to protect New Mexicans' drinking water by adding permit requirements inline with health standards.

"Under the Clean Water Act, the rubber hits the road when the standards and goals for waterways are turned into permit requirements," he said.

"EPA must act now to protect the people and environment in Los Alamos County. We hope the EPA decides to do the right thing."

MORE: [Waste to water: From basin to basin, oil and gas water dilemma grows as production booms \(https://www.currentargus.com/in-depth/news/local/2019/08/28/fracking-natural-gas-oil-produced-waste-water-solutions-vary/1991586001/\)](#)

DOE working toward solution

In June, the U.S. Department of Energy's Los Alamos Field Office contended that it was working to contain and control the growth of a contaminant plume in the area's local groundwater.

Using a ground water extraction, treatment and injection system, the DOE's Office of Environmental Management (EM) hoped to reduce the level of pollutants and contain their spread.

Sampling in May showed a reduction in concentrations of the contaminant hexavalent chromium, down to 51.2 parts per billion from 140 parts per billion.

The state standard was 50 parts per billion.

MORE: [Devon Energy works to recycle fracking waste water in the Permian Basin \(/story/news/local/2019/09/13/recycle-waste-water-fracking-permian-basin-devon-energy-natural-gas-oil/2286904001/\)](#)

The chromium was the result of a non-nuclear power plant at Los Alamos National Laboratory, which flushed contaminated water into Sandia Canyon from cooling towers between 1956 and 1972.

The chemical was used as a corrosion inhibitor, but its usage was ceased in 1972.

"The interim measure has enabled us to make tremendous progress toward reducing the footprint of the chromium plume and keeping it within the LANL boundary," said Cheryl Rodriguez, federal cleanup director of the EM Los Alamos office.

MORE: [New Mexico looking to recycle fracking waste water from oil and gas operations \(/story/news/local/2019/09/12/new-mexico-recycle-fracking-waste-water-oil-gas-gov-michelle-lujan-grisham/2303450001/\)](#)

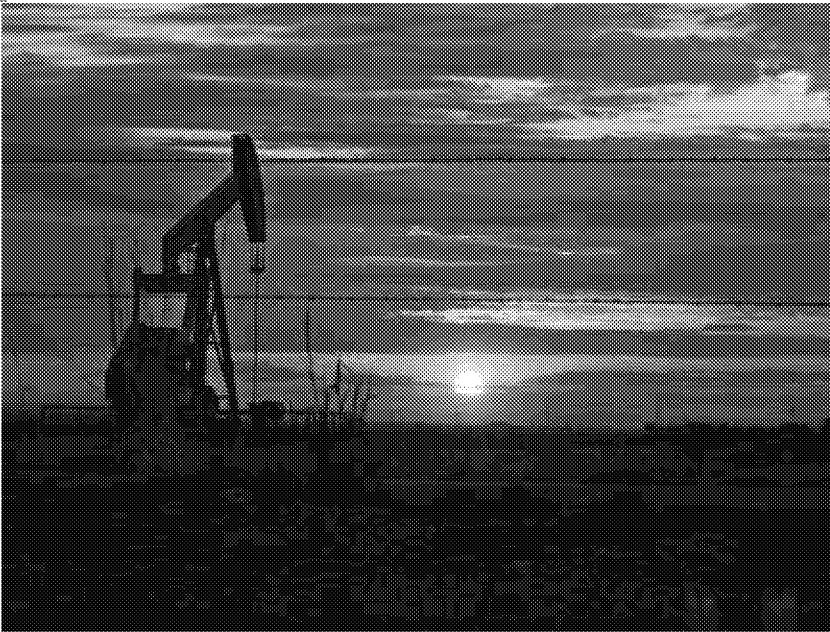
The system pumps the chromium-contaminated water up from the region aquifer using extraction wells.

It is then piped to a treatment facility where the chromium is pulled out, before the water is sent back down via injection wells along the edge of the plume.

"The combined extraction and injection shows the interim measure's effectiveness at lowering chromium concentrations at monitoring wells," read a DOE news release. "Over time, injection of the treated water lowers the chromium concentrations along the edge of the plume and reduces the plume's size."

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by THE OKLAHOMAN EDITORIAL BOARD

Published: Wed, September 18, 2019 1:05 AM | Updated: Wed, September 18, 2019 1:20 AM



The Environmental Protection Agency's recent repeal of an Obama-era water rule is good news for the state's farmers and ranchers and a victory for Oklahoma's senior U.S. senator, who fought the overzealous move from the outset.

In 2015, the EPA greatly expanded the definition of "Waters of the United States," or WOTUS, under the federal Clean Water Act. The term traditionally had referred to large lakes and rivers, although the definition was expanded in 1986 to include tributaries and adjacent wetlands.

Under the 2015 rule, "Waters of the United States" were to include any water with a "significant nexus" to bodies of water. Consequently, normally dry land could be subject to far stricter environmental regulation. The rule not only declared dry land to be wet based on high-water marks, but also when computer simulations could concoct a scenario where land might someday be flooded.

Estimates by the EPA showed the rule created about 4.6 million miles of new "waters," far more than the 3.5 million miles impacted by the prior law.

U.S. Rep. Frank Lucas, R-Cheyenne, was among a large chorus of critics. Lucas, a farmer, said in early 2017 that WOTUS had created "widespread uncertainty for many of the folks in the agriculture, energy and construction sectors." He called the rule "far-reaching and arbitrary."

More than 30 states challenged the WOTUS rule, which also was rejected by various federal courts. As chairman of the Environment and Public Works Committee, Sen. Jim Inhofe, R-Tulsa, led the fight in the Senate against WOTUS, writing several letters to the administration, holding hearings and introducing legislation to change it.

Soon after his election, President Trump provided good news to opponents of the rule when he ordered a rewrite of WOTUS. Trump called it "one of the worst examples of federal regulation" that "has truly run amuk."

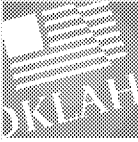
In August of last year, a federal court in South Carolina stymied the administration's effort to suspend the rule while it was overhauled, a move that was opposed by Oklahoma Attorney General Mike Hunter, who called WOTUS "nothing more than bureaucratic overreach."

Last week the EPA approved a rule that repeals the Obama-era rule and restores previous water regulations. In a second step, expected next year, the EPA and U.S. Army Corps of Engineers will revise the definition of WOTUS again.

Inhofe noted that the EPA under Trump has finalized 46 deregulatory actions that have saved Americans more than \$3.7 in regulatory costs.

The WOTUS rule “has taken state and local land and unlawfully put it into the control of the federal government,” Inhofe said. The EPA’s move to end the rule “continues to prove how the Trump administration and the EPA understand the needs of farmers and rural Americans.”

Environmental groups don’t like this change, but the rule went too far and its repeal is apropos.



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Improvement at Tar Creek, but still many years to fully remediate area, says EPA official

By Sheila Stogsdill For the Tulsa World 6 hrs ago



Chat piles consisting of mining waste dot the landscape in what remains of the town of Picher. MIKE SIMONS/Tulsa World file

TULSAWORLD

MIAMI, Okla. — Environmental Protection Agency Regional Administrator Ken McQueen touted how working together with the state and the Quapaw Nation has yielded many successes in the Tar Creek Strategic Plan, but there are many years left to restore the land.

McQueen, who spoke Tuesday at a Tar Creek conference, is the Environmental Protection Agency Region 6 administrator.

“We have come a long way in Tar Creek and we still have many years of expensive work ahead of us to fully remediate Tar Creek,” McQueen said during the 21st National Environmental Conference at Tar Creek which continues through Wednesday .

The theme for this year's conference is "40 Years of Bad Water."

In March, the EPA announced its Strategic Plan, which saw the Department of Environmental Quality, the Quapaw Nation and the Tar Creek community work together to improve progress in addressing mining waste and contamination at the site.

"I am encouraged by the work we have done together and the work we plan to do in the future," McQueen said.

"We have carefully considered all of the public comments," he said, referring to the plan.

For years, the 40-square miles of lead and zinc-contaminated land was at the top of the EPA's Superfund list after mining companies departed, leaving countless environmental and medical problems.

A federally funded buyout of the area was prompted after a 2006 Army Corps of Engineers study showed the abandoned lead and zinc mines underneath Picher and the nearby communities of Cardin and Hockerville had a high risk of caving in.

Other parts of the plan are to reevaluate land use assumptions across the site, consider consolidating chat ownership to improve the marketability of chat, explore new technologies and make sure clean up actions are protective of human health and the environment, he said.

During the conference, Rebecca Jim, LEAD (Local Environmental Action Demanded Inc.) Agency executive director, praised the work of Don Ackerman, an environmental health specialist.

“He was at the Indian Clinic and working on his master’s when he questioned the health of the children,” Jim said.

Through his research he discovered the children had high blood-lead levels and led the charge in getting the EPA to investigate.

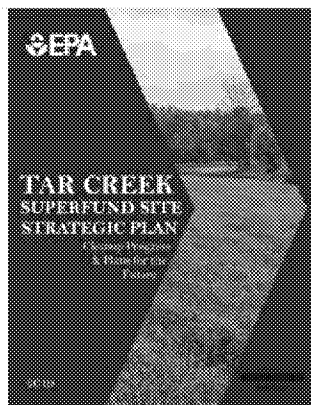
“He did this,” Jim said.

Also scheduled to speak are Ray Roberts with the Oklahoma Department of Environmental Quality and Mike McAteer, EPA federal on-site coordinator, who will present a BF Goodrich benzene update on Wednesday.

Other topics are “Hemp in Ottawa County” and “Flooding, FERC and Fear” as well as lead in water and animals.

Featured video

Mourners show up to honor World War II veteran with no family left



Read the EPA plan
15 hrs ago

EPA releases strategic plan

The Environmental Protection Agency released the Final Tar Creek Strategic Plan on Tuesday.

The 25-page strategic plan guides cleanup progress through identified near- and long-term actions. Some near-term cleanup actions include the partial deletion of up to 5,000 acres, amending the 2008 record of decision for mining waste, and issuing a new record of decision for the watersheds, according to the release.

Long-term actions include exploring innovative technologies to expedite the cleanup and identifying additional reuse opportunities. Additionally, the cleanup at the site furthers the commitment EPA made in the Federal Lead Action Plan by managing lead contamination at Superfund sites, thereby reducing exposure to community residents.

The plan required identification and evaluation of opportunities to accelerate site cleanup, and achieving long-term stewardship by implementing institutional controls on tribally-owned property to protect cleanup.

To achieve this milestone, EPA worked collaboratively with the Department of Interior, the Bureau of Indian Affairs and the Quapaw Nation. This resulted in the first national conservation easement recorded on tribally-owned property at a Superfund Site.

"This strategic plan is a commitment to the communities near the Tar Creek site by EPA and our state and tribal partners to work together to accelerate the cleanup of the site and build a better future for those who call this area home," EPA Regional Administrator Ken McQueen said.

SHEILA STOGSDILL

THE TRANSFORMATION OF THE ENERGY SECTOR

EPA**Clean Power Plan legal war is over — sort of**

Nilina H. Farah, E&E News reporter

Published: Wednesday, September 18, 2019



A federal court yesterday tossed out the litigation over the Obama-era Clean Power Plan. Francis Chung/E&E News

Litigation over the Clean Power Plan may have officially come to an end yesterday, but some of the key issues about the legality of the rule will still be up for review in the lawsuit over its replacement.

The U.S. Court of Appeals for the District of Columbia Circuit ruled yesterday that the consolidated litigation over the Obama administration's rule on carbon emissions from power plants was now moot (*E&E News PM*, Sept. 17).

Attorneys tracking the case say the decision was expected now that the agency had finalized its repeal of the Clean Power Plan and replaced it with the Affordable Clean Energy rule. They said the court will still have to make a decision on the best approach for power plants to cut carbon emissions that is allowable under the Clean Air Act.

A spokesperson for EPA said the agency was pleased with the court's decision to dismiss the challenges to the Clean Power Plan.

"This ends an era of a regulation that lacked sufficient legal support and attempted to assert broad EPA regulation over the energy sector of our economy," the spokesperson said in an emailed statement. "We look forward to turning the page and defending the Affordable Clean Energy Rule in the courts. We are confident that ACE provides a more balanced policy approach and will survive judicial review."

Jeff Holmstead, a partner at the law firm Bracewell LLP, argued that environmental groups had wanted to consolidate litigation on the Clean Power Plan with litigation on the Affordable Clean Energy rule in an effort to keep Justice Brett Kavanaugh, a Trump administration appointee, from being a part of any Supreme Court challenge to the high-profile rulemaking.

"They could then argue, if the case eventually goes to the Supreme Court, that Justice Kavanaugh should be recused, since he was on the D.C. Circuit when the CPP litigation was argued to the en banc court," he said in a statement on the court's decision. "This was always a stretch, but today's decision completely eliminates this possibility."

But David Doniger, senior strategic director of the Natural Resources Defense Council's climate and clean energy program, made no mention of such a possibility in discussing implications of yesterday's ruling.

Doniger said the decision to dismiss the case as moot would not have an effect on the case against the CPP repeal and the ACE rule.

"The real goal for the Trump administration is to try to lock in an interpretation of the Clean Air Act that would result in do-nothing standards," he said.

He pointed out that a number of top officials involved in the ACE rule had been among those opposed to the Clean Power Plan when it was unveiled in 2015.

Third time

A former EPA official said some of the issues before the D.C. Circuit in the ACE litigation would be familiar to the federal appeals court.

"The reality is that this litigation will be the third time that the D.C. Circuit will be hearing a dispute about what counts as the best system of emissions reductions from power plants under Section 111(d) [of the Clean Air Act]," said Joseph Goffman, a former senior EPA official under the Obama administration.

The Obama administration favored a system allowing states to use carbon trading and fuel switching to cut emissions. The Trump administration has taken a much more narrow view that technical fixes at the facility level are the only allowable approach.

The D.C. Circuit had also addressed the question of the best system of emissions reductions in separate litigation over a rule on toxic air pollution from power plants, Goffman added.

Other opponents of the Clean Power Plan cheered the court's decision yesterday.

The National Association of Manufacturers was among those pleased with the ruling. The group had challenged the rule, saying it had exceeded EPA's authority and would put manufacturing jobs at risk.

"With the EPA's recent finalization of the replacement Affordable Clean Energy Rule, the NAM and other industry and state groups asked the D.C. Circuit Court of Appeals to dismiss the case as moot, and we are glad they did so today," said Peter Tolsdorf, NAM's vice president of litigation and deputy general counsel, in a statement.

This story also appears in Climatewire.

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EXTREME WEATHER

Houston area prepares for heavy rain, flooding from Imelda

Published: Wednesday, September 18, 2019

Officials in the Houston area are preparing high-water vehicles and staging rescue boats as Tropical Storm Imelda threatens to dump up to 15 inches of rain in parts of southeast Texas and southwestern Louisiana over the next few days.

The storm, which formed yesterday, made landfall near Freeport, Texas, with maximum sustained winds of 40 mph.

Jeff Lindner, a meteorologist for the Harris County Flood Control District in Houston, said the main threat from Imelda remained the potential for heavy rainfall and flooding.

Some parts of Harris County and neighboring Galveston County had already received 2 to 3 inches of rain through yesterday morning.

Lindner said that while there is the potential for some isolated structure flooding in the Houston area, widespread house flooding "doesn't look likely at this point." — *Juan A. Lozano, Associated Press*

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CONGRESS. LEGISLATION. POLITICS.

TOXICS

House passes lead contamination bill

Manuel Quinones, E&E News reporter

Published: Wednesday, September 18, 2019

The House approved legislation yesterday to help fund efforts aimed at reducing lead from drinking water.

Lawmakers passed **S. 1689**, sponsored by Sen. Cory Booker (D-N.J.). It would allow states to transfer some money from their Clean Water State Revolving Fund to their Drinking Water State Revolving Fund.

The Senate approved the bill last week by unanimous consent. The House passed it unanimously under suspension of the rules.

"Every American has a right to clean drinking water, but my home state of New Jersey has been the latest to discover that our outdated and deteriorating infrastructure is simply not up to the task," said Energy and Commerce Chairman Frank Pallone (D-N.J.).

Tests have shown elevated levels of lead in Newark's drinking water. Booker served as the city's mayor before his election to the Senate in 2013.

"Residents of Newark, including myself, are counting on the federal government to remedy this environmental injustice and I thank my Senate colleagues from both parties for taking this issue seriously," Booker said in a statement.

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THE LEADER IN ENERGY AND ENVIRONMENT NEWS

MISSISSIPPI RIVER

Water quality sensor hitches a ride on steamboat*Published: Tuesday, September 17, 2019*

The American Queen has become the first private vessel to carry a sensor that gathers data to help preserve and restore ecosystems. Army Corps of Engineers/Facebook

A data-gathering sensor attached to the American Queen steamboat will give scientists and cities a better understanding of water quality along the entire length of the Mississippi River, officials said yesterday.

U.S. Geological Survey and Army Corps of Engineers officials, a group of Mississippi River city mayors, and the operators of the American Queen gathered to show off the new equipment on the steam-driven vessel in Memphis, Tenn. The stately steamboat is the first private vessel to carry a sensor that gathers data to help preserve and restore ecosystems, and to buoy economies of cities and towns up and down the heavily traveled commercial waterway.

Good water quality is vital for cities that get their drinking water from the river. Mississippi River water is also used for industrial purposes such as farm irrigation and beverage manufacturing, and by tourists who enjoy fishing, kayaking and other recreational activities.

Although 3,700 sensors are already in fixed locations along the river, officials say the American Queen's mobile device will help build a larger picture of water quality as the vessel travels from Minnesota to Louisiana. It will help identify areas where nitrogen from farms, lawns and even sewage systems affects water quality, even in the Gulf of Mexico. It also will help municipalities use the data to target specific ecosystem renewal and other types of projects, and ask the federal government for funding for them, officials said.

"No one wants to hunt, fish, paddle or cruise in or near water full of algae due to nutrient surge," said Marco McClendon, mayor of West Memphis, Ark. "We need to know what's in our water to keep it clean."

The steamboat sensor will gather water temperatures; levels of turbidity, oxygen and nitrates; and other data every five minutes, said Jim Reilly, director of the U.S. Geological Survey. Data will then be sent to government offices, municipalities and other stakeholders for their analysis and use, Reilly said.

Mississippi River sensors also gather information on nitrogen and phosphorus that flows down the river from farms and other sources. Those chemicals wind up in the Gulf of Mexico, creating a large oxygen-starved "dead zone" south of Louisiana every summer.

Meanwhile, a kiosk installed on the American Queen will let travelers learn about the project and how the data will help create a better understanding of the importance of good water quality on the Mississippi River. —

Adrian Sainz and Janet McConaughy, Associated Press

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Third new judge in two years on Spanish Lake oil field contamination suit orders new hearings on Shell liability

BY DAVID J. MITCHELL | STAFF WRITER SEP 17, 2019 - 5:31 AM



Looking north. Drone view of environmental damage Friday Jan. 4, 2019, at the Spanish Lake watershed in Iberville Parish, La. Dark green area at right is the original waste pit. A long running oil legacy suit against Shell Oil Company alleges severe salt/heavy metal contamination due to oil drilling in Spanish Lake from the 1940's to '90s. Neither party is disputing the fact of the contamination, just who is responsible and its extent. The plaintiffs also claim it is causing elevated salt levels in Bayou Manchac because the contamination has reached into the aquifer several hundred feet deep.

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Photo provided by Spanish Lake Restoration LLC

PLAQUEMINE — A retired appellate judge appointed to hear a longstanding oil field legacy lawsuit involving the Spanish Lake swamp breathed new life into the landowners' damage claims this week when he granted them new hearings that keep Shell Oil firmly in the dispute.

Filed in 2010 in Iberville Parish, the lawsuit brought by Spanish Lake Restoration, a wetland mitigation bank holding 4,000 acres of the swamp southwest of Baton Rouge, has never gone to on trial on the merits.

The plaintiffs allege wastes from decades of drilling have contaminated the surface and subsurface under old drilling areas in the St. Gabriel oil field and migrated under Spanish Lake Restoration land, causing hundreds of millions of dollars in damage to hundreds of acres.

They claim the damage was masked because the swamp basin was flooded for years by a floodgate at Bayou Manchac.

Shell has argued the time period to bring the claims has long since elapsed and, even if it were liable, the damage is far less extensive,

requiring a remediation of 16 acres for \$1.3 million.

The case has been in years of settlement negotiations and litigation over whether the plaintiffs even had a legal claim against Shell Oil and other former oil drillers due to the passage of time and the piecemeal expiration of Shell's original drilling lease, which dates from 1940.

A number of oil drilling companies were named in the suit but none bigger than Shell, which cut the deal with the landowners before other drillers took over portions of the lease through the years.

Last year, attorneys for Shell and Spanish Lake had three days of hearings over whether the claims against Shell were brought within legal deadlines to sue.

The question turned primarily on what the former landowners knew about the contamination and when they knew it, before Spanish Lake Restoration bought the property in 2009. Most legal deadlines to sue rely on this date.

On Oct. 2, retired 21st Judicial District Judge Bruce Bennett, the former ad hoc judge on the case, sustained Shell's arguments that the legal claims had expired, except for possibly one 20-acre tract. But, eight days later, Bennett recused himself over concerns raised by the plaintiffs, even after Bennett initially said he wouldn't.

Before he left the case, however, Bennett found the prior owners of the land knew of a surface salt kill, which the judge called "open and obvious," that should have prompted further investigation. A salt kill is where vegetation is killed by salt concentrations. In this instance, the plaintiffs say there was also salt contamination underground, not just on the surface. Bennett, however, said the surface salt kill should have been enough to put the owners on notice they needed to investigate what was going underground too.

The judge added that those owners had been solicited in 2004 by the Talbot, Carmouche and Marcello law firm for a possible legacy suit, in which the firm told them then that they had a claim against Shell.

The same firm, which is the leading plaintiff's outfit in legacy cases, represents Spanish Lake Restoration.

Bennett called this letter "powerful and significant evidence" that the prior owners knew about the damage and had a duty to investigate before legal deadlines expired.

But, on Monday, Judge Edward "Jimmy" Gaidry, the ad hoc judge now presiding on the case, found that Bennett erred when he put the burden of proof on the plaintiffs to show the damage claims against Shell haven't expired, instead saying it was Shell's obligation prove.

Gaidry, who is the third judge on the case in less than two years and replaced Bennett in July, actually sustained Bennett's ruling Aug. 15. But Gaidry said Monday that he didn't independently verify the ruling's validity and the burden of proof matter requires a fresh look at the case.

"I feel I've got to grant a new trial" on Shell's contentions, Gaidry said at the Iberville Parish Courthouse in Plaquemine.

In prior motions for new trial, Spanish Lake Restoration had argued the burden of proof was wrongly placed on the plaintiffs.

Pat Gray and George Arceneaux, attorneys for Shell, on Monday disputed that Shell bore that burden and, in earlier pleadings, argued that Bennett's recusal shouldn't affect the validity of his ruling. They added that Gaidry had the authority as an ad hoc judge to sustain Bennett's earlier order without new hearings.

Gaidry didn't agree and set a four days of hearing on the legal dispute beginning Nov. 12.

Gaidry was a district judge in Terrebonne Parish and a 1st Circuit Court of Appeal judge for 10 years until his retirement in 2012. He was appointed to the Spanish Lake case July 9 by Supreme Court Justice Jeff Hughes III.

Attorneys for Spanish Lake Restoration and Shell declined to comment after the hearing Monday, but Shell's lawyers in their pleadings haven't been happy with the recusals.

In court papers last year opposing Bennett's recusal, they pointed out that he and the original judge, Iberville Parish Judge Alvin

Batiste Jr., were removed after they issued adverse rulings limiting the plaintiffs' claims against Shell.

"It is another attempt to obtain a judge who SLR hopes will favor its cause. It also had the effect of delaying the trial yet again. This case has now been set for trial and continued three times," Gray, Shell's attorney, wrote in October.

In prompting Bennett's self-recusal, Spanish Lake Restoration's attorneys had raised questions about a call Bennett made to the plaintiffs days before his ruling as a trial on the merits of the case and settlement negotiations were then pending.

Though Bennett was returning a missed call from the plaintiffs, the plaintiffs later argued his call, in combination with the subsequent ruling for Shell, constituted grounds for recusal because Bennett had inquired about the status of the settlement negotiations on the phone.

The ruling against the plaintiffs, they argued, could be seen as retribution for the plaintiffs' not settling.

In his recusal order, Bennett wrote that the fear "most certainly is not true" but recognized that the combination of events "could be perceived by an uninitiated party litigant as some sort of judicial retribution or punishment for failing to settle and, therefore, a reasonable basis, to question my impartiality."

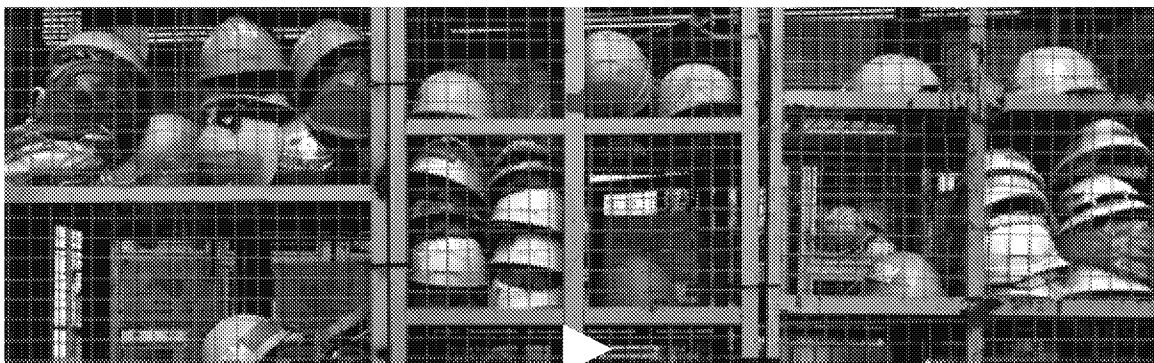
"As far-fetched as it sounds, it does seem to have a reasonable basis to it," Bennett wrote.

Bennett added that he had asked about settlement talks because the trial was close and he had to see whether he needed to issue his ruling, which required work with a voluminous court record.

In April, the Supreme Court denied Shell's appeal of Bennett's recusal, leading to Gaidry's appointment over the summer.

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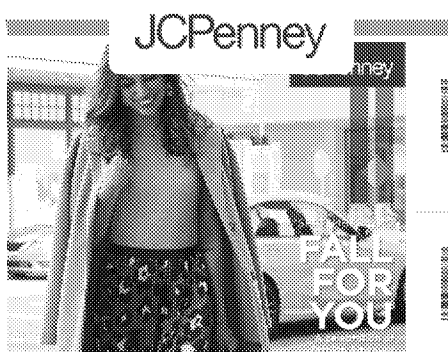
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BUSINESS

New TCEQ commissioner an Abbott aid with nuclear waste experience

Erin Douglas

Sep. 16, 2019 | Updated: Sep. 17, 2019 10:13 a.m.



● ●

Texas Commission on Environmental Quality hearing on Wednesday, June 12th, 2019 meeting.

Photo: Courtesy Photo / Texas Commission on Environmental Quality

Bobby Janecka, a policy aide to Texas Gov. Greg Abbott and Texas liaison to the federal Nuclear Regulatory Commission, was appointed by the governor to the Texas Commission on Environmental Quality on Monday.

Janecka assumes a seat that had been vacant since last September when former TCEO

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Janecka, 35, has served as the state's liaison to the Nuclear Regulatory Commission, a federal agency tasked with regulating nuclear power plants and other uses of nuclear materials, since being appointed to the position by the governor in May. He formerly worked for the TCEQ as a section manager in the agency's Radioactive Materials Division.

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